

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

THURSDAY, THE 12TH JULY 2007 / 21ST ASHADHA 1929

Crl.Rev.Pet.No. 941 of 1999(B)

CRA.333/1995 of I ADDL. SESSIONS COURT, TRIVANDRUM
CC.577/1992 of JUDL. MAGISTRATE OF FIRST CLASS COURT-I, NEYYATTINKARA
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REVN. PETITIONERS/APPELLANTS/ACCUSED 2,3 & 4:

1. SIVARAJAN, S/O. KARUNAKARAN,
MADHAVA VILASOM, PUNNAKKARI,
UDENCODE, IDAIKKODE,
THIRUVANANTHAPURAM.
2. GOPINATH ALIAS MONY,
S/O. MADHAVAN
MADHAVA VILASOM, T.C.NO.3/840/1,
MUTTADA, THIRUVANANTHAPURAM.
3. SUDHAKARAN, S/O. MADHAVAN,
VEERA BHAVAN, MUDUMBIL, PARASSERI,
CHAKKAYUL, THIRUVANANTHAPURAM.

BY ADV. SRI.P.RAMAKRISHNAN NAIR

RESPONDENT/RESPONDENT/COMPLAINANT:

STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.
CRIME NO.152/1992, VALLARADA POLICE STATION.

BY PUBLIC PROSECUTOR SRI.DILIP.S

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 12/07/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

Crl.Rev.Pet.No. 941 of 1999(B)

ORDER ON CRL.M.P.NO.4351/1999 IN CRL.R.P.NO. 941/1999

DISMISSED.

12.7.2007

SD/- K.R.UDAYABHANU, JUDGE.

// TRUE COPY//

K.R. UDAYABHANU, J.

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CRL.R.P.NO. 941 OF 1999

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DATED THIS THE 12th July 2007

ORDER

The revision petitioners are accused 2 to 4 who stands convicted for the offences under Sections 326, 324, 323 read with Section 34 I.P.C. and sentenced to undergo rigorous imprisonment for two years each. It is submitted that third appellant/accused No.4 is no more. Death certificate has been produced at the instance of the revision petitioner.

2. The prosecution case is that on account of previous enmity accused 4 in number (A1 is absconding) had quarrelled with Pws.1 and 2 and A1 snatched the knife from A2 and stabbed on the chest of PW1. PW1 underwent treatment in the Medical College Hospital,

Thiruvananthapuram. It was found that the injury is grievous one.

3. The contention of the revision petitioners is that there is no evidence as to the common intention and hence the offence under Section 326 will not lie as the overt act was committed by A1 who was absconding. The incident took place on 19-7-1992 at 6 p.m. in front of the house of PW2.

4. The evidence consisted of the testimony of Pws.1 to 10 and Exts.P1 to P10 and Mos.1 and 2. Pws.1 to 5 are the occurrence witnesses that included the injured and his father. I find no contradictions with respect to the previous statements of the above witnesses were brought out. Hence, I find no reason to interfere in the findings of the courts below. The conviction is confirmed.

5. Counsel for the revision petitioner has pleaded for leniency pointing out that the incident has taken place in 1992 and further that the 2nd revision petitioner/A3

underwent a cardiac surgery recently and is in advanced age. In the circumstances the sentence for the offence under Section 326 I.P.C. is modified to imprisonment till the rising of the court and to pay a compensation of Rs.10,000/- each to PW1 and in default to undergo simple imprisonment for six months each. The revision petitioners shall appear before the Judicial First Class Magistrate-I, Neyyattinkara on 24-8-2007 to receive sentence. The Crl.revision petition is disposed of accordingly.

K.R.UDAYABHANU, JUDGE

ks.

K.R.UDAYABHANU, J

CRL.R.P. NO. 941 OF 1999-B
ORDER

12-7-2007